



General Assembly

**Substitute Bill No. 454**

February Session, 2016

\* SB00454APP 042716 \*

**AN ACT CONCERNING AUTOMATIC ERASURE OF CRIMINAL  
RECORDS AND BAIL FOR PERSONS CHARGED WITH  
MISDEMEANOR DRUG POSSESSION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-142a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) Whenever in any criminal case, on or after October 1, 1969, the  
4 accused, by a final judgment, is found not guilty of the charge or the  
5 charge is dismissed, or the charge is dropped prior to arraignment or  
6 the accused is released without being charged due to a false arrest on  
7 account of mistaken identity, all police and court records and records  
8 of any state's attorney pertaining to such charge shall be automatically  
9 erased (1) immediately upon the dismissal of the charge, upon the  
10 charge being dropped prior to arraignment or if the accused is released  
11 without being charged due to a false arrest on account of mistaken  
12 identity, (2) upon the expiration of the time to file a writ of error or  
13 take an appeal, if an appeal is not taken, or (3) upon final  
14 determination of the appeal sustaining a finding of not guilty or a  
15 dismissal, if an appeal is taken, as applicable. Nothing in this  
16 subsection shall require the erasure of any record pertaining to a  
17 charge for which the defendant was found not guilty by reason of  
18 mental disease or defect or guilty but not criminally responsible by

19 reason of mental disease or defect.

20 (b) Whenever in any criminal case prior to October 1, 1969, the  
21 accused, by a final judgment, was found not guilty of the charge or the  
22 charge was dismissed, all police and court records and records of the  
23 state's or prosecuting attorney or the prosecuting grand juror  
24 pertaining to such charge shall be erased by operation of law and the  
25 clerk or any person charged with the retention and control of such  
26 records shall not disclose to anyone their existence or any information  
27 pertaining to any charge so erased; provided nothing in this subsection  
28 shall prohibit the arrested person or any one of his heirs from filing a  
29 petition for erasure with the court granting such not guilty judgment  
30 or dismissal, or, where the matter had been before a municipal court, a  
31 trial justice, the Circuit Court or the Court of Common Pleas with the  
32 records center of the Judicial Department and thereupon all police and  
33 court records and records of the state's attorney, prosecuting attorney  
34 or prosecuting grand juror pertaining to such charge shall be erased.  
35 Nothing in this subsection shall require the erasure of any record  
36 pertaining to a charge for which the defendant was found not guilty by  
37 reason of mental disease or defect.

38 (c) (1) Whenever any charge in a criminal case has been nolle in the  
39 Superior Court, or in the Court of Common Pleas, if at least thirteen  
40 months have elapsed since such nolle, all police and court records and  
41 records of the state's or prosecuting attorney or the prosecuting grand  
42 juror pertaining to such charge shall be automatically erased, except  
43 that in cases of nolle entered in the Superior Court, Court of Common  
44 Pleas, Circuit Court, municipal court or by a justice of the peace prior  
45 to April 1, 1972, such records shall be deemed erased by operation of  
46 law and the clerk or the person charged with the retention and control  
47 of such records shall not disclose to anyone their existence or any  
48 information pertaining to any charge so erased, provided nothing in  
49 this subsection shall prohibit the arrested person or any one of his  
50 heirs from filing a petition to the court or to the records center of the  
51 Judicial Department, as the case may be, to have such records erased,

52 in which case such records shall be erased.

53 (2) Whenever any charge in a criminal case has been continued at  
54 the request of the prosecuting attorney, and a period of thirteen  
55 months has elapsed since the granting of such continuance during  
56 which period there has been no prosecution or other disposition of the  
57 matter, the charge shall be nolledd upon motion of the arrested person  
58 and [such erasure may thereafter be effected or a petition filed  
59 therefor, as the case may be, as provided in this subsection for nolledd  
60 cases] all police and court records and records of any state's attorney  
61 pertaining to such charge shall be automatically erased.

62 (d) (1) Whenever prior to October 1, 1974, any person who has been  
63 convicted of an offense in any court of this state has received an  
64 absolute pardon for such offense, such person or any one of his heirs  
65 may, at any time subsequent to such pardon, file a petition with the  
66 superior court at the location in which such conviction was effected, or  
67 with the superior court at the location having custody of the records of  
68 such conviction or with the records center of the Judicial Department if  
69 such conviction was in the Court of Common Pleas, Circuit Court,  
70 municipal court or by a trial justice court, for an order of erasure, and  
71 the Superior Court or records center of the Judicial Department shall  
72 direct all police and court records and records of the state's or  
73 prosecuting attorney pertaining to such case to be erased.

74 (2) Whenever such absolute pardon was received on or after  
75 October 1, 1974, such records shall be erased.

76 (e) (1) The clerk of the court or any person charged with retention  
77 and control of such records in the records center of the Judicial  
78 Department or any law enforcement agency having information  
79 contained in such erased records shall (A) not later than sixty days  
80 after such records are erased, notify the subject of the erased records of  
81 such erasure and, if such erasure was due to the subject's false arrest or  
82 dismissal of charges due to a lack of a finding of probable cause, such  
83 person charged with retention and control of such records shall

84 destroy any records of fingerprints, photographs or physical  
85 description of the subject of the records or similar records created at  
86 the time of such arrest, and (B) not disclose to anyone, except the  
87 subject of the record, upon submission pursuant to guidelines  
88 prescribed by the Office of the Chief Court Administrator of  
89 satisfactory proof of the subject's identity, information pertaining to  
90 any charge erased under any provision of this section. [and such] Such  
91 clerk or person charged with the retention and control of such records  
92 shall forward a notice of such erasure to any [law enforcement agency]  
93 state or federal agency or any municipality to which he knows  
94 information concerning the arrest has been disseminated and [such  
95 disseminated information shall be erased from the records of such law  
96 enforcement agency] any such state agency or municipality shall  
97 immediately erase such records. Such clerk or such person, as the case  
98 may be, shall provide adequate security measures to safeguard against  
99 unauthorized access to or dissemination of such records or upon the  
100 request of the accused cause the actual physical destruction of such  
101 records, except that such clerk or such person shall not cause the actual  
102 physical destruction of such records until three years have elapsed  
103 from the date of the final disposition of the criminal case to which such  
104 records pertain.

105 (2) No fee shall be charged in any court with respect to any petition  
106 under this section.

107 (3) Any person who shall have been the subject of such an erasure  
108 shall be deemed to have never been arrested within the meaning of the  
109 general statutes with respect to the proceedings so erased and may so  
110 swear under oath or otherwise deny the occurrence of such arrest for  
111 any purpose, including, but not limited to, an application for  
112 employment or for a firearm or ammunition permit or certificate  
113 pursuant to title 29 or for the lawful purchase of a firearm or  
114 ammunition.

115 (f) Upon motion properly brought, the court or a judge thereof, if  
116 such court is not in session, may order disclosure of such records (1) to

117 a defendant in an action for false arrest arising out of the proceedings  
118 so erased, or (2) to the prosecuting attorney and defense counsel in  
119 connection with any perjury charges which the prosecutor alleges may  
120 have arisen from the testimony elicited during the trial. Such  
121 disclosure of such records is subject also to any records destruction  
122 program pursuant to which the records may have been destroyed. The  
123 jury charge in connection with erased offenses may be ordered by the  
124 judge for use by the judiciary, provided the names of the accused and  
125 the witnesses are omitted therefrom.

126 (g) The provisions of this section shall not apply to any police or  
127 court records or the records of any state's attorney or prosecuting  
128 attorney with respect to any information or indictment containing  
129 more than one count (1) while the criminal case is pending, or (2) when  
130 the criminal case is disposed of unless and until all counts are entitled  
131 to erasure in accordance with the provisions of this section, except that  
132 when the criminal case is disposed of, electronic records or portions of  
133 electronic records released to the public that reference a charge that  
134 would otherwise be entitled to erasure under this section shall be  
135 erased in accordance with the provisions of this section. Nothing in  
136 this section shall require the erasure of any information contained in  
137 the registry of protective orders established pursuant to section 51-5c.  
138 For the purposes of this subsection, "electronic record" means any  
139 police or court record or the record of any state's attorney or  
140 prosecuting attorney that is an electronic record, as defined in section  
141 1-267, or a computer printout.

142 (h) Any records taken at the time of arrest that include a DNA  
143 (deoxyribonucleic acid) sample or any DNA profile created from such  
144 sample that are subject to erasure pursuant to this section, shall be  
145 destroyed and expunged and purged from any system in accordance  
146 with the provisions of section 54-102l.

147 (i) The Court Support Services Division of the Judicial Branch shall  
148 maintain a listing of any persons convicted of a misdemeanor violation  
149 of section 21a-279. If any such person has no other arrests during the

150 five-year period following such a conviction and is not known to have  
151 illegally sold or possessed controlled substances during said period,  
152 the records of such conviction shall be erased and the person charged  
153 with retention and control of such records in the records center of the  
154 Judicial Department or any law enforcement agency having  
155 information contained in such erased records shall notify the person  
156 who is the subject of such records of such erasure.

157 [(h)] (j) For the purposes of this section, "court records" shall not  
158 include a record or transcript of the proceedings made or prepared by  
159 an official court reporter, assistant court reporter or monitor.

160 Sec. 2. Subsection (a) of section 54-64a of the general statutes is  
161 repealed and the following is substituted in lieu thereof (*Effective*  
162 *October 1, 2016*):

163 (a) (1) Except as provided in subdivision (3) of this subsection and  
164 subsection (b) of this section, when any arrested person is presented  
165 before the Superior Court, said court shall, in bailable offenses,  
166 promptly order the release of such person upon the first of the  
167 following conditions of release found sufficient to reasonably ensure  
168 the appearance of the arrested person in court: (A) Upon his execution  
169 of a written promise to appear without special conditions, (B) upon his  
170 execution of a written promise to appear with nonfinancial conditions,  
171 (C) upon his execution of a bond without surety in no greater amount  
172 than necessary, (D) upon his execution of a bond with surety in no  
173 greater amount than necessary. In addition to or in conjunction with  
174 any of the conditions enumerated in subparagraphs (A) to (D),  
175 inclusive, of this subdivision the court may, when it has reason to  
176 believe that the person is drug-dependent and where necessary,  
177 reasonable and appropriate, order the person to submit to a urinalysis  
178 drug test and to participate in a program of periodic drug testing and  
179 treatment. The results of any such drug test shall not be admissible in  
180 any criminal proceeding concerning such person.

181 (2) The court may, in determining what conditions of release will

182 reasonably ensure the appearance of the arrested person in court,  
 183 consider the following factors: (A) The nature and circumstances of the  
 184 offense, (B) such person's record of previous convictions, (C) such  
 185 person's past record of appearance in court after being admitted to  
 186 bail, (D) such person's family ties, (E) such person's employment  
 187 record, (F) such person's financial resources, character and mental  
 188 condition, and (G) such person's community ties.

189 (3) The court shall release a person charged with no crime other  
 190 than a misdemeanor violation of section 21a-279 upon such person's  
 191 execution of a written promise to appear without special conditions, or  
 192 upon such person's execution of a written promise to appear with  
 193 nonfinancial conditions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	54-142a
Sec. 2	October 1, 2016	54-64a(a)

**JUD**      *Joint Favorable Subst.*

**APP**      *Joint Favorable*